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CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BY: 9 DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BURK N. ASHFORD,

Plaintiff,

vs.

GOEPPINGER-CURRAN,
DEVELOPMENT, LLC; et al.,

Defendants.

CASE NO. 08cv949 WQH (RBB)

ORDER

HAYES, Judge:

Pending before the Court is Plaintiff Burk N. Ashford's motion to proceed in forma pauperis. (Doc. # 2).

DISCUSSION & ORDER

On May 29, 2008, Plaintiff Burk N. Ashford filed the Complaint (Doc. # 1). Plaintiff also filed the presently pending motion to proceed in forma pauperis (Doc. # 2).

All parties instituting a civil action, suit, or proceeding in a district court of the United States, other than a petition for writ of habeas corpus, must pay a filing fee of \$350.00. 28 U.S.C. § 1914(a). An action may proceed despite a party's failure to pay only if the party is granted leave to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915(a). See *Rodriguez v. Cook*, 169 F.3d 1176, 1177 (9th Cir. 1999). "To proceed in forma pauperis is a privilege not a right." *Smart v. Heinze*, 347 F.2d 114, 116 (9th Cir. 1965).

In his accompanying affidavit, Plaintiff states that he is a self-employed remodeling contractor, and that "[i]ncome for the months of November 2007 through January 2008 was virtually nil." *IFP*

1 Decl., p. 2. Plaintiff states that he has no other source of money, that he does not own a car, does not
2 have a checking account, and does not have any other assets such as stocks, bonds, or securities.
3 Plaintiff states that he has outstanding debts exceeding \$40,000.00.

4 After considering Plaintiff's motion and the accompanying affidavit, the Court determines that
5 Plaintiff cannot afford to pay the filing fee in this case and is eligible to proceed in forma pauperis
6 pursuant to 28 U.S.C. § 1915(a). The Court therefore **GRANTS** Plaintiff's motion to proceed in
7 forma pauperis (Doc. # 2).

8 The Clerk of the Court is directed to issue a summons and provide Plaintiff with the summons,
9 certified copies of both this Order and the Complaint, and a blank U.S. Marshal Form 285. Plaintiff
10 shall complete the U.S. Marshal Form 285, and forward the Form 285 along with the designated copies
11 of this Order and the Complaint to the U.S. Marshal. The U.S. Marshal shall serve a copy of the
12 Complaint and summons upon the Defendant as directed by Plaintiff on each U.S. Marshal Form 285.

13 **IT IS SO ORDERED.**

14
15 DATE: 7/22/08


WILLIAM Q. HAYES
UNITED STATES DISTRICT JUDGE